

Steven L. Beshear
Governor



Elaine Farris
Interim Commissioner of Education

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET
DEPARTMENT OF EDUCATION**

Capital Plaza Tower • 500 Mero Street • Frankfort, Kentucky 40601
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April 23, 2009

Mr. Joseph C. Conaty
Delegated Authority to Perform the Functions and Duties of the
Assistant Secretary for Elementary and Secondary Education
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, SW, Suite 3E314
Washington, D.C. 20202

Re: Request to amend Kentucky's State Application Accountability Workbook

Dear Mr. Conaty:

Kentucky is seeking approval to amend Kentucky's State Application Accountability Workbook for the 2009 reporting component of the No Child Left Behind (NCLB) Act. Kentucky requests a delay of public reporting of NCLB results until the week of September 21, 2009. This request is based primarily on two significant, federally declared disasters associated with weather conditions occurring in Kentucky during the 2008-2009 school year: (1) severe windstorm associated with Tropical Depression Ike in September 2008 and (2) severe ice storm in January 2009.

In December 2008, the United States Department of Education (USED) informed Kentucky that the 2007-08 reporting date was missed by four days. We immediately contacted our vendor to discuss options of moving the reporting date earlier even though the testing window for 2008-09 had been moved later in the year. While discussing options, Kentucky was hit with a second significant storm in January. Subsequently, districts were faced with having less instructional days prior to the testing window, thus potentially affecting their test results. The loss of instructional days was the cause for us to move the spring 2009 testing window even later in the year. Movement of the testing window to late May makes it impossible, both fiscally and logistically, for our vendor to return results prior to September.

While Kentucky recognizes the importance and legality of providing assessment results to local education agencies, schools, and teachers "no later than before the beginning of the next school year", the one-time schedule change will assure that reporting is based on stable data and

accurately reflects the performance of Kentucky's schools. It is important to point out that Kentucky is not requesting schools to be exempted from NCLB consequences due to the weather and lost instructional day issues, but Kentucky is requesting a later reporting date.

The remainder of this document outlines in more detail the following information:

- 89% compliance under section 1111 of the ESEA to provide decisions about AYP in time for schools to implement the required provisions under section 1116 before the beginning of the next academic year;
- Background on the Federal Weather Disasters and impact on schools;
- Background on the Kerri L. Briggs USED Reporting Compliance Letter; and
- Schedule/timeline showing steps Kentucky is taking to meet the September reporting date.

89% compliance under section 1111 of the ESEA

Under section 1111 of the ESEA, states are required to provide decisions about AYP in time for schools to implement the required provisions under section 1116 before the beginning of the next academic year. Our analysis of school performance indicates that 89% of schools are not affected by the delayed reporting of AYP performance. Only 11% of Title 1 schools are candidates for entering consequences or coming out of consequences.

Kentucky will notify districts and schools in May 2009 that remain or will enter consequences for 2009-2010 school year based on:

- 2007 and 2008 performance and the two-year rule to exit and elementary and middle schools as identified through "Other Academic Indicator".
- High schools that are in consequences because of not meeting graduation rate. Kentucky releases non-academic school, district and state findings in May for the previous school year.

Kentucky can significantly meet the transfer requirement and other consequences for schools based on their pattern associated with the two-year rule of being removed from Tier status; therefore, the great majority of Title 1 schools in Kentucky can comply with the requirements to offer transfer choice and to begin their work on other NCLB consequences beginning the spring of 2009.

Background on the Federal Weather Disasters

As mentioned earlier, Kentucky has experienced two weather related disasters this school year. A September 2008 severe wind storm associated with tropical depression Ike occurred and an ice storm hit in January/February 2009. Most Kentucky schools were closed for an extended period of time and will have a significant reduction in instructional days prior to the testing window. Both events were severe enough to receive a Federal Disaster Declaration. The following chart summarizes the impact on Kentucky school districts and students.

Kentucky Federal Disaster Declaration

Kentucky school districts (county and independent) and students impacted by the severe wind storm associated with tropical depression Ike and the January / February 2009 ice storm are depicted below.

Federal Disaster Counties	Severe Wind Storm (Ike) * September 2008	Ice Storm Jan/Feb 2009
Impacted School Districts	53	141
% Impacted School Districts	30%	81%
Impacted Students	281,246	574,469
% Impacted Students	43%	87%

* Severe wind storm disaster counties were also seriously affected by the ice storm and were again declared Federal disaster counties.

Attached are FEMA documents about the Federal declaration and maps showing Kentucky counties eligible for Federal assistance. The FEMA web locations are:

Tropic Depression Ike – September 14-15, 2008

Declaration: <http://www.fema.gov/news/newsrelease.fema?id=46162>

Map: http://www.gismaps.fema.gov/2008graphics/dr1802/dec_1802.pdf

Winter Ice Storm - January 26, 2009 - February 13, 2009

Declaration: <http://www.fema.gov/news/newsrelease.fema?id=47472>

Map: http://www.gismaps.fema.gov/2009graphics/em3302/em_3302.pdf

Also attached is a summary document showing how districts were impacted by each event.

The number of days schools were closed due to the ice storm varied from about a week to as many as three weeks. Roads were not passable, counties depleted their salt supplies, and large sections of the state were without electricity and telephone service, both wire and wireless. Schools were being used as evacuation shelters and quarters for out-of-state emergency workers. Simply put, Kentucky's infrastructure was in shambles. Three months after the Ice Storm, the sides of many roads are still littered with broken tree branches that were just bulldozed off of the asphalt to make the roads useable. In monetary terms, federal disaster assistance to Kentucky may pass \$250 million. To date over 1,700 project requests from more than 650 state agencies, local governments and non-profit organizations have been received by FEMA.

School districts have been forced to extend the school year to make up lost instructional days from the September and January/February weather events. Since NCLB is high stakes accountability and to allow schools the same number of instructional days before the start of the state assessment, the Kentucky Board of Education approved a flexible testing window that allows for state testing to happen later in the school year. The following chart summarizes the original and the new test administration schedule.

Original Testing Window Schedule

Window	Start Date
All Schools	May 4

New Test Administration Window Schedule

Window	Start Date
Window 1	April 20
Window 2	April 27
Window 3	May 4
Window 4	May 11

With over one-third of students scheduled to be tested in Window 4, our testing contractor is not able to handle the workload and meet the start-of-school reporting schedule. They have other state contracts that have similar reporting schedules and are not in a position to put Kentucky ahead of those contracts. To meet the schedule our testing contractor would need to hire a significant number of additional temporary staff and rent equipment and additional space. The estimate of costs far exceeds what Kentucky can afford to pay. Kentucky, like most states, is in financial difficulty because of the economy.

Kerri L. Briggs USED Reporting Compliance Letter

Kentucky recognizes the importance and legality of providing assessment results to local education agencies, schools, and teachers “no later than before the beginning of the next school year”. In December 2008, Kentucky was in receipt of a letter from Kerri L. Briggs, Assistant Secretary for Elementary and Secondary Education. The letter shared that USED felt that Kentucky was expected to report 2008 AYP determinations to LEAs five calendar days earlier than what occurred. The letter emphasized the importance of reporting results on time, possible future legal implications and the expectation that Kentucky shall report 2009 AYP findings on schedule.

When Jon Draud became Commissioner of Education in December 2007, he desired to move the testing window nearer to the end of the school year. In January 2008, the testing contractor was consulted about moving the testing window from the last two weeks of April to the first two weeks of May. At that time, there did not appear to be a problem with reporting times. One year later in December 2008, the Kerri L. Briggs letter was received and the testing contractor was again consulted. We were in conversations with our contractor when the January ice storm crippled Kentucky. Once the magnitude of the storm’s impact was realized, our primary concern was how to provide a full year’s instruction to Kentucky students. After conversations with LEAs on best approaches, the decision to extend the school year was reached and to accommodate the different school year closing dates, a flexible testing window was developed with four different start dates. Thus, a shift in the testing window due to the natural disasters is resulting in a shift in reporting of AYP determinations.

Schedule/Timeline Showing Steps Kentucky is Implementing to Meet September Dates

Obviously, Kentucky wishes to report the 2009 assessment results earlier. Just as critical is reporting accurate test results. Attached is a project schedule providing an outline of activities remaining to be accomplished for the reporting of test results.

If you have questions, please contact Ken Draut at 502-564-2256 or via email at Ken.Draut@education.ky.gov. Thank you for consideration of this request. Please contact us if you have questions. We look forward to hearing back from you soon on this matter.

Sincerely,



Elaine Farris

cc: Kentucky Board of Education members
Patrick Rooney
David Harmon
Vickie Robinson

Mary Ann Miller
Zollie Stevenson, Jr.
Ken Draut

Attachments



Press Resources

News Releases
Advisories
Fact Sheets

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Testimony & Speeches
Noticias En Español
Press Contacts
Additional Resources

President Declares Major Disaster For Kentucky

Release Date: October 9, 2008
Release Number: HQ-08-236

[More Information on Kentucky Severe Wind Storm associated with Tropical Depression Ike](#)

[En Español](#)

WASHINGTON, D.C. – The head of the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) today announced that federal disaster aid has been made available for Kentucky to supplement Commonwealth and local recovery efforts in the area struck by a severe wind storm associated with Tropical Depression Ike on September 14, 2008.

FEMA Administrator David Paulison said the assistance was authorized under a major disaster declaration issued for the commonwealth by President Bush. The President's action makes federal funding available to the Commonwealth and eligible local governments and certain private nonprofit organizations on a cost-sharing basis for emergency work and the repair or replacement of facilities damaged by the severe wind storm associated with Tropical Depression Ike in the counties of Ballard, Boone, Breckenridge, Buflitt, Caldwell, Calloway, Campbell, Carlisle, Carroll, Crittenden, Daviess, Fulton, Gallatin, Graves, Hancock, Henderson, Hickman, Hopkins, Jefferson, Livingston, Lyon, Marshall, Meade, McCracken, McLean, Muhlenberg, Ohio, Oldham, Shelby, Tingo, Trimble, Union, and Webster.

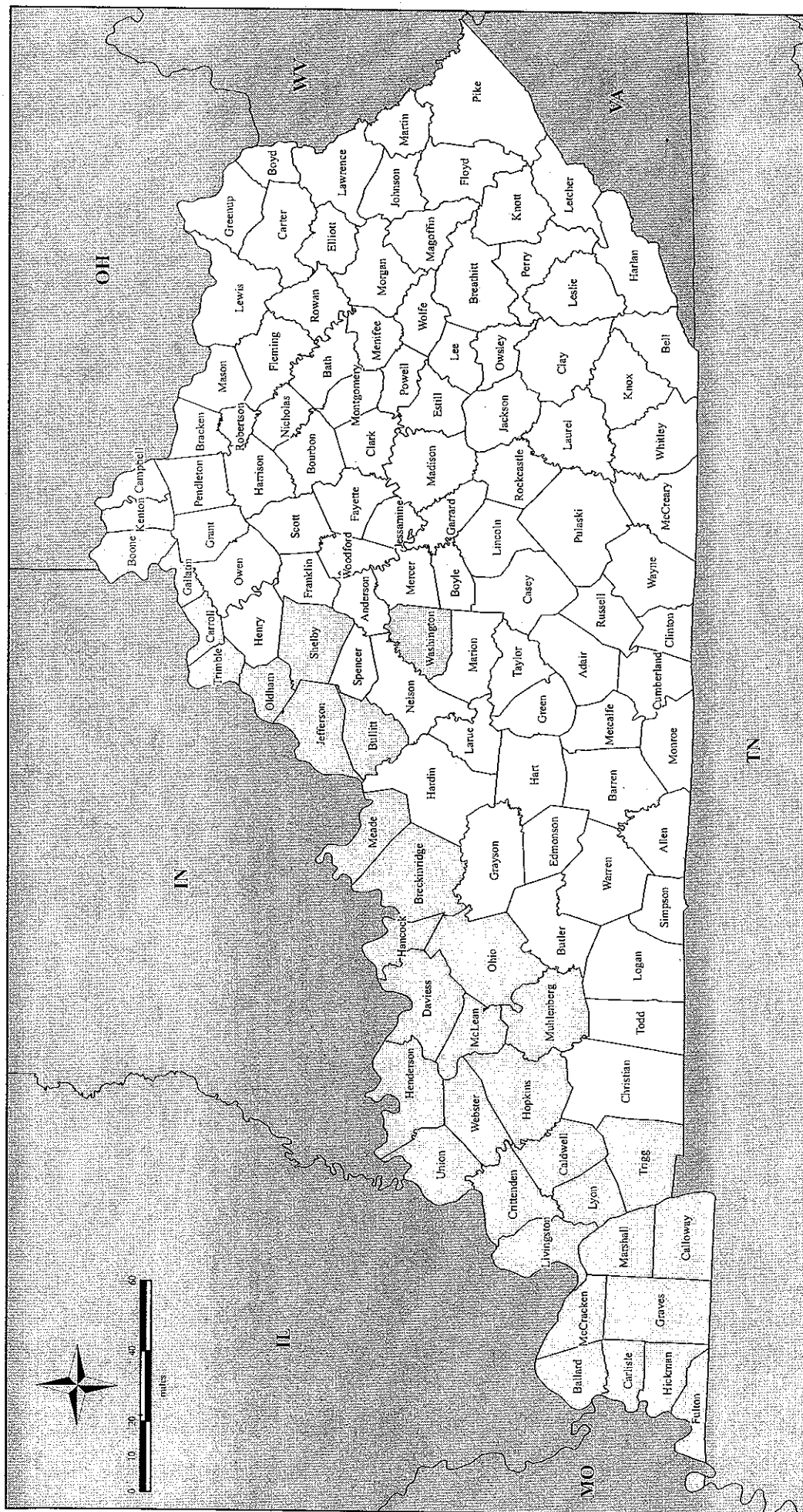
Federal funding is also available on a cost-sharing basis for hazard mitigation measures for the entire Commonwealth.

Paulison named Kim R. Kadesch as the Federal Coordinating Officer for federal recovery operations in the affected area.

FEMA said additional designations may be made at a later date if requested by the commonwealth and warranted by the results of further damage assessments.

FEMA coordinates the federal government's role in preparing for, preventing, mitigating the effects of, responding to, and recovering from all domestic disasters, whether natural or man-made, including acts of terror.

Last Modified: Thursday, 09-Oct-2008 20:51:25



Designated Counties
☐ No Designation
☒ Public Assistance

All counties are eligible for Hazard Mitigation



FEMA

ITS Mapping & Analysis Center
Washington, DC
10/27/08 -- 12:21 PM EDT

Source: Disaster Federal Registry Notice
Amendment No. 2 - 10/27/2008

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Release Date: February 13, 2009

Release Number: 1818-014A

[More Information on Kentucky Severe Winter Storm](#)

FRANKFORT, KY – Local governments in an additional seven Kentucky counties are now eligible for direct federal assistance under the emergency declaration for the severe winter storm that began Jan. 27, according to officials from the U.S. Department of Homeland Security's Federal Emergency Management Agency.

The added counties are Boone, Casey, Gallatin, Henry, Kenton, Taylor and Trimble.

President Obama signed the emergency declaration Wednesday, Jan. 28. The additional seven counties bring the total number of federally designated counties to 100 for the emergency.

The previously designated counties are Allen, Anderson, Ballard, Barren, Bath, Bourbon, Boyd, Boyle, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Campbell, Carlisle, Carroll, Carter, Christian, Clark, Clay, Crittenden, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Fulton, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Johnson, Larue, Lawrence, Lee, Lewis, Lincoln, Livingston, Logan, Lyon, Madison, Magoffin, Marion, Marshall, Martin, Mason, McCracken, McLean, Meade, Menifee, Mercer, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Owsley, Pendleton, Perry, Powell, Rowan, Robertson, Scott, Shelby, Spencer, Todd, Trigg, Union, Warren, Washington, Webster, Wolfe and Woodford.

The emergency declaration makes federal funding, authorized under Title V of the Stafford Act, available to state and eligible local governments and certain private nonprofit organizations on a cost-sharing basis to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in the designated areas.

Specifically, FEMA is authorized to provide emergency protective measures (Category B), limited to direct federal assistance, under the Public Assistance program at 75 percent federal funding.

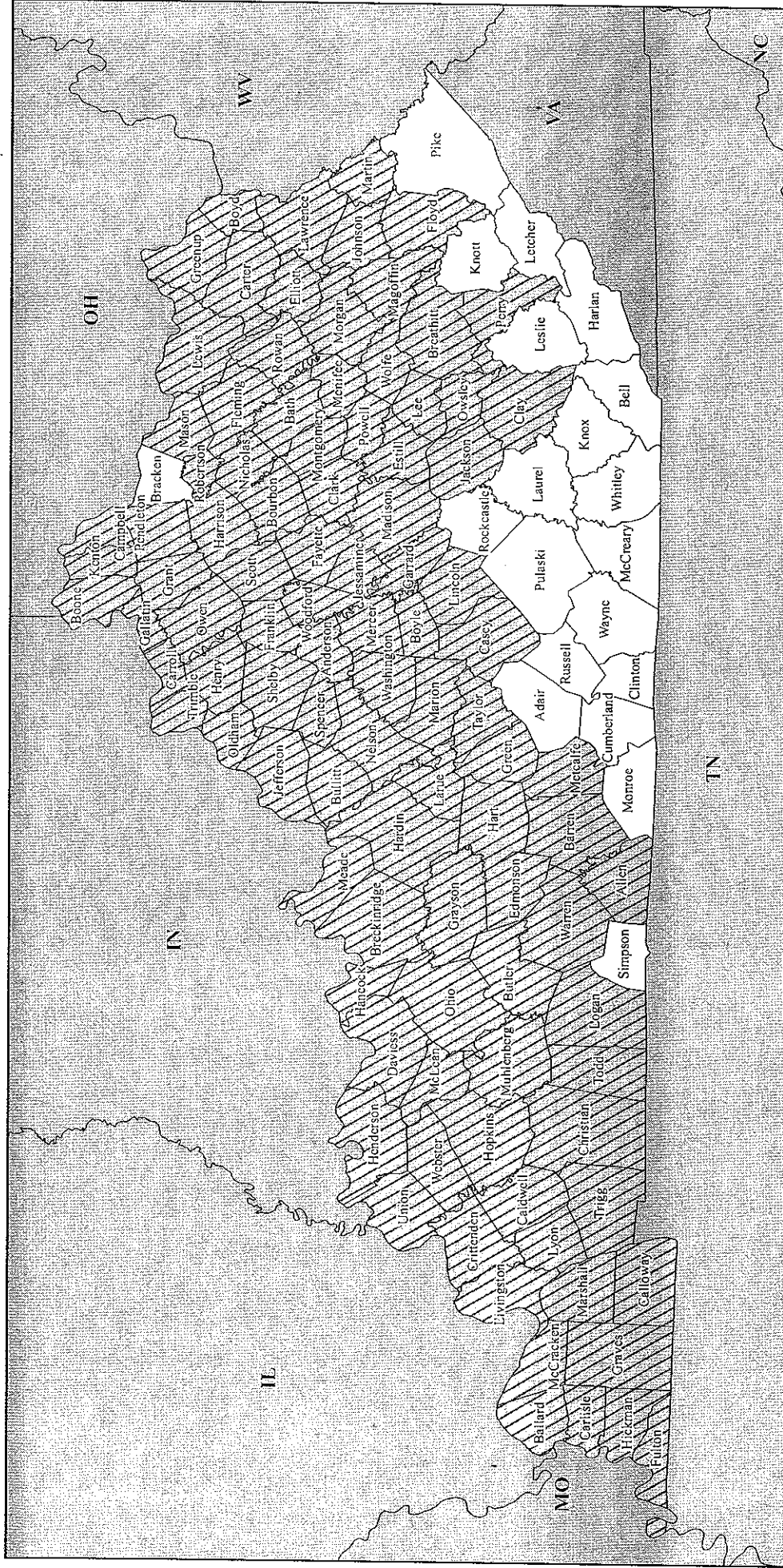
FEMA leads and supports the nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation, to reduce the loss of life and property and protect the nation from all hazards including natural disasters, acts of terrorism, and other man-made disasters.

Last Modified: Tuesday, 17-Feb-2009 10:26:57

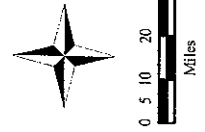
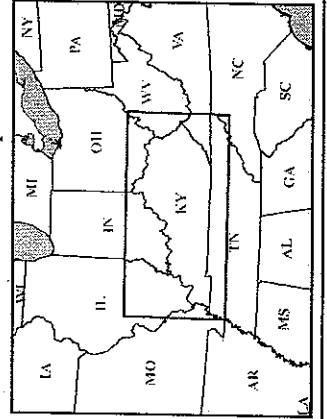
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FEMA 500 C Street SW, Washington, D.C. 20472
Disaster Assistance: (800) 621-FEMA

FEMA-3302-EM, Kentucky Emergency Declaration as of 02/12/2009

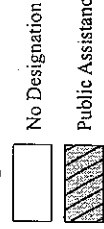


Location Map



Legend

Designated Counties



FEMA

ITS Mapping & Analysis Center
Washington, DC

02/12/09 -- 02:56 PM EST

Source: Disaster Federal Registry Notice
Amendment No. 2 - 02/12/2009

Kentucky School Districts Impacted by Weather Closures April 2009

DIST. NO.	DISTRICT	IKE Sept. 2008	ICE STORM Jan/Feb 2009
001	Adair County		
005	Allen County		X
006	Anchorage Independent	X	X
011	Anderson County		X
012	Ashland Independent		X
013	Augusta Independent		
015	Ballard County	X	X
016	Barbourville Independent		
017	Bardstown Independent		X
021	Barren County		X
025	Bath County		X
026	Beechwood Independent	X	X
031	Bell County		
032	Bellevue Independent	X	X
034	Berea Independent		X
035	Boone County	X	X
041	Bourbon County	X	X
042	Bowling Green Independent		X
045	Boyd County		X
051	Boyle County		X
055	Bracken County		
061	Breathitt County		X
065	Breckinridge County	X	X
071	Bullitt County	X	X
072	Burgin Independent		X
075	Butler County		X
081	Caldwell County	X	X
085	Calloway County	X	X
091	Campbell County	X	X
092	Campbellsville Independent		X
095	Carlisle County	X	X
101	Carroll County	X	X
105	Carter County		X
111	Casey County		X
113	Caverna Independent		X
115	Christian County		X
121	Clark County		X
125	Clay County		X
131	Clinton County		
132	Cloverport Independent	X	X
133	Corbin Independent		
134	Covington Independent	X	X
135	Crittenden County	X	X
141	Cumberland County		
143	Danville Independent		X
145	Daviess County	X	X
146	Dawson Springs Independent		
147	Dayton Independent	X	X

Kentucky School Districts Impacted by Weather Closures April 2009

149	East Bernstadt Independent		
151	Edmonson County		X
152	Elizabethtown Independent		X
155	Elliott County		X
156	Eminence Independent		X
157	Erlanger-Elsmere Independent	X	X
161	Estill County		X
162	Fairview Independent		X
165	Fayette County		X
171	Fleming County		X
175	Floyd County		X
176	Fort Thomas Independent	X	X
177	Frankfort Independent		X
181	Franklin County		X
185	Fulton County	X	X
186	Fulton Independent	X	X
191	Gallatin County	X	X
195	Garrard County		X
197	Glasgow Independent		X
201	Grant County		X
205	Graves County	X	X
211	Grayson County		X
215	Green County		X
221	Greenup County		X
225	Hancock County	X	X
231	Hardin County		X
235	Harlan County		
236	Harlan Independent		
241	Harrison County		X
245	Hart County		X
246	Hazard Independent		X
251	Henderson County	X	X
255	Henry County		X
265	Hopkins County	X	X
271	Jackson County		X
272	Jackson Independent		X
275	Jefferson County	X	X
276	Jenkins Independent		
281	Jessamine County		X
285	Johnson County		X
291	Kenton County	X	X
295	Knott County		
301	Knox County		
305	LaRue County		X
311	Laurel County		
315	Lawrence County		X
321	Lee County		X
325	Leslie County		
331	Letcher County		
335	Lewis County		X
341	Lincoln County		X

**Kentucky School Districts Impacted by Weather Closures
April 2009**

345	Livingston County		X
351	Logan County		X
354	Ludlow Independent	X	X
361	Lyon County	X	X
365	Madison County		X
371	Magoffin County		X
375	Marion County		X
381	Marshall County	X	X
385	Martin County		X
392	Mayfield Independent		X
395	McCracken County	X	X
401	McCreary County		
405	McLean County	X	X
411	Meade County	X	X
415	Menifee County		X
421	Mercer County		X
425	Metcalfe County		X
425	Metcalfe County		X
425	Metcalfe County		X
425	Metcalfe County		X
425	Metcalfe County		X
425	Metcalfe County		X
426	Middlesboro Independent		
431	Monroe County		
435	Montgomery County		X
436	Monticello Independent		
441	Morgan County		X
445	Muhlenberg County	X	X
446	Murray Independent	X	X
451	Nelson County		X
452	Newport Independent	X	X
455	Nicholas County		X
461	Ohio County		X
465	Oldham County	X	X
471	Owen County		X
472	Owensboro Independent	X	X
475	Owsley County		X
476	Paducah Independent	X	X
477	Paintsville Independent		X
478	Paris Independent		X
481	Pendleton County		X
485	Perry County		X
491	Pike County		
492	Pikeville Independent		
493	Pineville Independent		
495	Powell County		X
501	Pulaski County		
502	Raceland-Worthington Independent		X
505	Robertson County		X
511	Rockcastle County		
515	Rowan County		X

**Kentucky School Districts Impacted by Weather Closures
April 2009**

521	Russell County		
522	Russell Independent		X
524	Science Hill Independent		
525	Scott County		X
531	Shelby County	X	X
533	Silver Grove Independent	X	X
535	Simpson County		
536	Somerset Independent		
537	Southgate Independent	X	X
541	Spencer County		X
551	Todd County		X
555	Trigg County	X	X
561	Trimble County	X	X
565	Union County	X	X
567	Walton-Verona Independent	X	X
571	Warren County		X
575	Washington County	X	X
581	Wayne County		
585	Webster County	X	X
586	West Point Independent		X
591	Whitley County		
592	Williamsburg Independent		
595	Wolfe County		X
601	Woodford County		X
602	KY School for Blind	X	X
603	KY School for Deaf		X

Kentucky NCLB/Kentucky Core Content Schedule of Activities
April 15, 2009

ID	Task Name	Start	Finish
1	Start of Test Administration Window 1	04/20/2009	04/20/2009
2	Start of Test Administration Window 2	04/27/2009	04/27/2009
3	Start of Test Administration Window 3	05/04/2009	05/04/2009
4	Start of Test Administration Window 4	05/11/2009	05/11/2009
5	UPS picks up completed test materials for Test Administration Window 1 schools	05/07/2009	05/07/2009
6	UPS picks up completed test materials for Blue Dot schools	05/12/2009	05/12/2009
7	UPS picks up completed test materials for Test Administration Window 2 schools	05/14/2009	05/14/2009
8	UPS picks up completed test materials for Test Administration Window 3 schools	05/21/2009	05/21/2009
9	UPS picks up completed test materials for Test Administration Window 4 schools	05/26/2009	05/26/2009
10	UPS picks up completed test materials for 10 largest school districts	06/01/2009	06/01/2009
11	Testing Contractor login of test materials	05/09/2009	06/19/2009
12	Testing Contractor scans student test booklets <ul style="list-style-type: none"> Grades 3 and 4 are combined test booklets Grades 5-8, 10 and 11 are answer booklets 	05/10/2009	06/22/2009
13	Testing Contractor resolution of student test book discrepancies	05/16/2009	06/26/2009
14	KDE assists contractor in discrepancy	06/26/2009	07/02/2009
15	Testing Contractor Scoring of Student Reading, Mathematics, Science, Social Studies Open Response (Constructed Response) and On-demand Writing	07/01/2009	07/20/2009
16	Alternate Assessment data received from UK/KDE	07/21/2009	07/21/2009
17	District's final opportunity to cleanup student biographic and demographic information before reporting	07/31/2009	08/07/2009
18	Testing Contractor sends psychometric files to third party contractor that replicates scaling and equating e.g. a Q/C step	08/03/2009	08/03/2009
19	Scaling and equating by testing contractor and third party contractor	08/03/2009	08/10/2009

Kentucky NCLB/Kentucky Core Content Schedule of Activities
April 15, 2009

20	Testing Contractor provides preliminary state results to KDE for approval	08/13/2009	08/13/2009
21	KDE approves state results	08/14/2009	08/14/2009
22	Testing Contractor performs data analysis and Q/C steps	08/15/2009	09/07/2009
23	Testing Contractor delivers AYP data files to KDE	09/08/2009	09/08/2009
24	KDE creates NCLB accountability reports	09/09/2009	09/17/2009
25	All District Assessment Coordinators (DAC's) meet at KDE (Frankfort, KY) to review and perform final quality assurance steps for AYP and Kentucky Core Content Test results.	09/15/2009	09/15/2009
26	KDE and Testing Contractor correct discrepancies discovered by DAC's when reviewing local results	09/17/2009	09/17/2009
27	Testing Contractor runs final electronic student listing reports for district and schools and create WEB based reports.	09/18/2009	09/22/2009
28	KDE runs final NCLB accountability reports and KCCT summary reports for districts and schools and create WEB based reports.	09/18/2009	09/22/2009
29	Testing Contractor prints Individual Student Reports (Parent Reports) and ships printed reports to schools	09/22/2009	10/08/2009
30	Public release of NCLB and Kentucky Core Content Test results	09/23/2009	09/23/2009